GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Mines & Minerals – M/s. AP Mineral Development Corporation Ltd. - Proposal to levy of penalty of 5% of the sale prices for the short fall quantities of both A and B grade barytes against target of 50% of the agreement quantities subject to maximum of Rs.5.00 Lakhs (instead of forfeiture of entire Performance Security Deposit) – Approval accorded - Orders Issued.

INDUSTRIES & COMMERCE (M-II) DEPARTMENT

G.O.MS.No. 169 **Dated: 02-12-2016**

Read the following:

1. From the VC&MD, M/s APMDC, File No. APMDC/M&S/BAR-Chem/PSD/SF/2016, dt.27.04.2016 in SFS.
2. Govt. Lr., No.5421/M.II(1)/2016, Dt. 25.07.2016.
3. From the VC&MD, M/s APMDC, Lr., No. APMDC/M&S/BAR-Chem/PSD/SF/2016, dt.16.08.2016.

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ORDER :

The Vice Chairman & Managing Director, M/s. AP Mineral Development Corporation Ltd., in the reference 1st read above has stated that the Board of M/s. APMDC in its 381st meeting held on 01.04.2016 noted that there was underperformance by the 72 Local Pulverizing Units in respect of Agreements with APMDC for supply of A grade and B grade Barytes lumps for the following reasons:-

(i) Since last quarter of the year 2014 there has been recession in the Oil and Gas Industry across the Globe and fall in the general commodities. The crude oil price which was USD 101/Barrel was reduced to USD 128.46/ Barrel i.e., 71.82% fall in the price. Compared to November, 2014 the Rig count in USA, Canada, North America and Mexico fell by 63% by January, 2016. Similarly, the fall in World Rig count was about 46%. All these factors resulted in fall in demand for Barytes and also fall in the price of Barytes.

(ii) China which is the largest supplier of Barytes in the Global market removed the export tax of 10% and offering supplies of Barytes at USD 90-95/MT on FoB basis. The price of Indian Barytes has been much higher than the price of Chinese Barytes.

(iii) India lost part of its market share in the Middle East Region to others primarily due to erratic supplies from India.

(iv) Most of the Mills are under SSI Sector.

(v) The mills were established for the purpose of value addition and based on the consent given by the Corporation that it would supply Barytes to them.

(vi) All the Mills in and around Mangampeta are dependent only on Barytes. They do not have alternate mineral or commodity for Pulverization work.

(vii) Local Pulverizing Units generate employment to about 45 to 55 persons under various categories. Thus, many families depend on the Pulverizing Units.

(viii) The Local Pulverizing Units incur an expenditure of about Rs.5 Lakh per month whether they have business or not.

(ix) Most of the mills are idle due to lack of demand and consequently they are in financial crunch and are unable to pay monthly minimum power demand charges, wages for employees and EMI to banks resulting in penal interests.

(P.T.O)

2. After detailed deliberations, the Board felt just and reasonable in respect of both Pulverizing Units and Chemical Units (whose performance is below 50% of aggregate of A and B grades) to levy a penalty of 5% of the sale prices for the short fall quantities of both A and B grade Barytes against target of 50% of the agreement quantities subject to a maximum of Rs.5 Lakhs.

3. Accordingly, the Vice Chairman & Managing Director, M/s. AP Mineral Development Corporation Ltd., has requested the Government to approve the proposal to levy of penalty of 5% of the sale prices for the short fall quantities of both A and B grade barytes against target of 50% of the agreement quantities subject to maximum of Rs.5.00 Lakhs (instead of forfeiture of entire Performance Security Deposit) as approved by the Board of the Corporation in its 381st meeting held on 01.04.2016.

4. The Vice Chairman & Managing Director, M/s. AP Mineral Development Corporation Ltd., in the reference 3rd read above has further stated that

(1) (i) The corporation collected 5% value of the contracts from the domestic industry as Performance Security Deposit (PSD). As per the contracts with pulverizing and barium chemical units, the PSD amounts are forfeitable in case their performance is below 50%. Category wise the details of underperformers and the PSD amounts paid by them are as below:

Sl.	**Category**	**No of under-perfor mers**	**Total of PSD amounts paid which are forfeitable as per agreements (Rs)**
1	Pulverisers (5 roller mills)	51	11,61,84,375
2	Pulverisers (3 roller mills)	21	1,59,46,875
3	Barium chemical Manufacturing units	8	85,78,500
	Total		**14,07,09,750**

(ii) The underperformance by the local pulverizing units is due to the reason that they do not export directly and they are dependent on the exporting buyers to sell Barytes powder. Due to bad market conditions, the exporters could not place any orders on the local pulverizing units resulting in non liquidation of material purchased from the Corporation and at the same time incurring fixed expenses resulting in financial crisis.

(2) (i) Under the above circumstances the forfeiture of entire PSD amounts is not just and would be fatal on them. At the same time refund of the entire PSD amounts to them would set a bad precedent. Hence the corporation, considering the genuine reason of severe recession in the market, proposed to levy penalty at 5% of the sale price on the shortfall quantities against contractual obligation subject to a maximum of Rs.5.00 Lakhs. Such levy of penalty works out to **Rs.2,71,19,617/-** as below:

(Cont...)

Sl.	Category	No. of Parties Under-performed	Proposed Levy of penalty @ 5% of the sale prices on shortfall quantities subject to maximum penalty of Rs.5.00 Lakhs (in Rs)
1	Pulverisers (5 roller mills)	51	2,22,81,309
2	Pulverisers (3 roller mills)	21	34,53,798
3	Barium chemical Manufacturing units	8	13,84,510
	Total		**2,71,19,617**

(ii) The sale price of A grade was Rs.6050/MT and penalty of 5% of the sale price works out to **Rs.302.50/MT** and the sale price of B grade was Rs.4775/MT and the penalty at 5% works out to **Rs.238.75/MT**. As per agreement the target was 50% of the agreement quantities and the penalties were levied on the target quantities less actual quantities purchased by the units. It was proposed to collect penalties on both A grade and B grade Barytes at actuals and sum of these penalties is subject to maximum ceiling of Rs.5.00 Lakhs. Out of 72 Pulverizing Units which did not reach targets as per the above table **11 units** though entered into agreement did not purchase any quantity of both A grade and B grade Barytes, **46 units** did not purchase any quantity of B grade Barytes. Out of 8 Barium Chemical Units **3 units** though entered into agreements did not purchase any quantity of Barytes.

(iii) The basis for 5% penalty is considered from a provision in agreements with exporters which facilitates levy penalty for the balance un-lifted quantities @ 5% on sale consideration over and above the minimum performance and below the targets stipulated in the contract.

(iv) The associations of pulverizing mills and Barium Chemical Manufacturing Units in various meetings requested the VC&MD, APMDC not to forfeit the Performance Security Deposits in view of the steep slump in the international market as well as the higher prices fixed by the corporation.

(3) Considering the market conditions as explained in detail, considering the dependency on exporters and also considering that there is no revenue loss to the Corporation, the Vice Chairman & Managing Director, M/s. APMDC has requested the Government to consider to approve the proposal to levy of penalty of 5% of the sale prices for the short fall quantities of both A and B grade barytes.

5. After careful examination of the matter and in order to provide relief to the defaulting units which were essentially small scale units, and due to the recession in the industry and as these units were entirely dependent on demand for barites powder from the exporting buyers who did not place any orders on them due to slump in oil production, the Government hereby accord approval to the proposal of M/s. AP Mineral Development Corporation Ltd., to levy of penalty of 5% of the sale prices for the short fall quantities of both A and B grade barytes against target of 50% of the agreement quantities, subject to maximum of Rs.5.00 Lakhs (instead of forfeiture of entire Performance Security Deposit) as approved by the Board of the Corporation in its 381st meeting held on 01.04.2016.

(P.T.O)

6. The Vice Chairman & Managing Director, M/s. AP Mineral Development Corporation Ltd., shall take further necessary action in the matter accordingly.

7. This order issues with the concurrence of the Finance Dept., vide their U.O. No. 45027/215/2016, dt. 24.10.2016.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B. SREEDHAR
SECRETARY TO GOVERNMENT (MINES)

To
The Vice Chairman & Managing Director, M/s. APMDC Ltd., Hyderabad.

Copy to:

The Director of Mines & Geology, Government of Andhra Pradesh.
The P.S. to M(M&G).
The P.S to Secretary (Mines)
The Finance Department.
Sf/Sc

//FORWARDED :: BY ORDER//

SECTION OFFICER